

EV 05-0036-CR 1 Y/F US v Boulb  
Magistrate Kennard P. Foster

Signed on 6/28/06

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

USA,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	
BOULB, BRIAN KEITH,	)	CAUSE NO. EV05-0036-CR-01-Y/H
	)	
Defendant.	)	

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. EV 05-36-CR-01 (Y/F))
	)	
BRIAN BOULB,	)	
	)	
Defendant.	)	

ENTRY AND ORDER FOR MENTAL EXAMINATION  
PURSUANT TO 18 U.S.C. §§4241 AND 4247

This matter came before the Court for an initial hearing on an alleged violation of supervised release regarding the above defendant. During the hearing, defendant's counsel made an oral motion to determine the mental competency of the defendant. That motion, coupled with the specifications of alleged violation, stimulates the Court to find, on its own motion, that there is reasonable cause to believe that Brian Boulb may presently be suffering from a mental disease or defect, rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceeding against him or to assist properly in his defense. In order to make a determination at a hearing for that purpose, pursuant to Title 18, United States, §§4241 and 4247, a psychiatric or psychological examination of Mr. Boulb shall be conducted and a psychiatric or psychological report shall be filed with the Court pursuant to the provisions of Title 18, United States Code, §4247(b) and relevant part of (c), to be considered by the Court, along with all other relevant and material evidence on the issue.

The United States of America did not object to defense counsel's motion or the Court's finding that an examination is necessary to determine the present ability of Mr. Boulb to understand the proceedings against him and to properly assist his attorney in his own defense.

Therefore, the Court having carefully considered the issues now before the Court, finds that there is a reasonable basis in fact to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

**IT IS THEREFORE ORDERED:**

(1) The defendant be committed to the custody of the U. S. Attorney General or his designee for transfer to a suitable facility for examination pursuant to 18 U.S.C. §§4241 and 4247. The facility designated by the Attorney General should be a facility where the defendant's current medical condition can be evaluated and he can receive appropriate treatment if necessary.

(2) The examinations and evaluations shall be conducted by licensed and certified psychiatrists or clinical psychologists at the designated facility in regard to the determination of competency and medical practitioners in regard to the diagnosis and prognosis of the defendant's current medical condition, if necessary and necessary treatment of any such conditions that may be found to exist. The examinations and evaluations conducted in accordance with 18 U.S.C. §§ 4241 and 4247 shall be conducted to determine whether the defendant is presently incompetent to understand the nature of the proceedings and charges against him and whether he can assist in his defense.

(3) The designated medical facility and the medical practitioners, pursuant to this order, are authorized to conduct all necessary physical and mental examinations and/or treatment of any

physical or mental diseases or sicknesses which they may diagnose during the examinations, evaluations and testing necessary to comply with the orders of the Court.

(4) At the conclusion of the examinations, evaluation and treatment of the defendant in accordance with this order the psychiatrist and/or clinical psychologist shall make a report of his or her findings as provided by 18 U.S.C. §4247(c)(1), (2), (3), (4)(A).

(5) The Court expressly notes that the order in this case is subject to the statutory requirement of 30 days under Section 4247(b) unless extended thereunder. In the event that the medical staff finds that the defendant's current medical condition requires treatment before an examination and evaluation can be conducted pursuant to 18 U.S.C. §§4241 and 4247, the time for conducting and carrying out that examination and evaluation shall not begin until the medical staff has determined Mr. Boulb's present physical condition is sufficiently stable to carry out a proper examination and evaluation pursuant to 18 U.S.C. §§4241 and 4247.

(6) At the conclusion of the proceedings described above, the defendant shall be returned to the Southern District of Indiana for further proceedings.

(7) The U. S. Marshals shall provide the designated facility with a copy of the Petition to Revoke Supervised Release and this Order. U. S. Parole and Probation may provide any other relevant information regarding the defendant.

(8) The time period necessary to evaluate the defendant's current physical and mental competency shall be excluded for Speedy Trial purposes. *See United States v. Crosby*, 713 F.2d 1066, 1079 (5th Cir.) *cert. denied*, 464 U.S. 1001, 104 S.Ct. 506, 78 L.Ed.2d 696 (1983).

(9) Additionally, any delay occasioned by the transportation, examination, diagnosis and treatment of the defendant's current medical condition shall be excluded for Speedy Trial purposes pursuant to 18 U.S.C. §3161(h)(1)(a)(8) and 18 U.S.C. §3161(h)(4).

**IT IS SO ORDERED** this 28<sup>th</sup> day of June, 2006.

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KENNARD P. FOSTER  
Magistrate Judge  
United States District Court

cc:

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U. S. Parole and Probation

U. S. Marshal